

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 122

**SENATE BILL 1170**

AN ACT

AMENDING SECTIONS 42-1114, 42-1151 AND 42-1152, ARIZONA REVISED STATUTES;  
RELATING TO TAX LIENS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1114, Arizona Revised Statutes, is amended to  
3 read:

4 42-1114. Suit to recover taxes

5 A. The department may bring an action in the name of this state to  
6 recover the amount of any taxes, penalties and interest due and unpaid. The  
7 department of law shall prosecute the action. In the action a writ of  
8 attachment may be issued and no bond or affidavit previous to issuing the  
9 attachment is required. In the action a certificate by the department of  
10 revenue showing the delinquency is prima facie evidence of the levy of the  
11 tax, of the delinquency and of the compliance by the department of revenue  
12 with all the provisions of law relating to the computation and levy of the  
13 tax.

14 B. The department of revenue may bring an appropriate action in any  
15 court of competent jurisdiction in the United States or any foreign country  
16 in the name of this state to recover the amount of any taxes, interest and  
17 penalties due. The department of law shall prosecute the action.

18 C. The action shall not commence more than six years after the amount  
19 of taxes determined to be due becomes final unless the taxpayer and the  
20 department extend the six year limitation or enforced collection has been  
21 stayed by operation of federal or state law. If enforced collection has been  
22 stayed, the period of limitations shall be extended by the period of time  
23 that the department was stayed from engaging in enforced collections. IF THE  
24 PERIOD OF LIMITATION IS EXTENDED, THE DEPARTMENT, BEFORE THE PERIOD OF  
25 EXTENSION EXPIRES, SHALL RECORD A NOTICE OF THE EXTENSION IN EACH COUNTY IN  
26 WHICH A NOTICE OF LIEN WAS RECORDED, IDENTIFYING THE RECORDING INFORMATION  
27 OF THE NOTICE OF LIEN, THE LIEN NUMBER AND THE TAXPAYER. If an action is not  
28 commenced within the six year period or within the period extended by  
29 agreement, the lien of the tax is extinguished as provided in section  
30 42-1151.

31 Sec. 2. Section 42-1151, Arizona Revised Statutes, is amended to read:

32 42-1151. Lien

33 A. If any tax, interest or penalty which the department is required  
34 to collect is not paid by a taxpayer when due, such unpaid amounts constitute  
35 a lien upon all property and rights to property, whether real or personal,  
36 belonging to the taxpayer or acquired by the taxpayer from the date the  
37 amounts are assessed or the date the return prescribing the liability is  
38 filed until the liability for the assessed amounts is satisfied. ~~except that~~  
39 The lien is extinguished if an action is not commenced within the period  
40 prescribed in, OR EXTENDED AS PROVIDED BY, section 42-1114, SUBSECTION C. IF  
41 THE PERIOD OF LIMITATION IS EXTENDED, THE DEPARTMENT, BEFORE THE PERIOD OF  
42 EXTENSION EXPIRES, SHALL RECORD A NOTICE OF THE EXTENSION IN EACH COUNTY IN  
43 WHICH A NOTICE OF LIEN WAS RECORDED, IDENTIFYING THE RECORDING INFORMATION  
44 OF THE NOTICE OF LIEN, THE LIEN NUMBER AND THE TAXPAYER.

1       B. The lien prescribed in this section is not valid against the  
2 following until the notice of the lien is filed as prescribed in section  
3 42-1152:

4       1. A mechanic's lienholder who holds a lien pursuant to title 33,  
5 chapter 7, article 6. The lien exists on the later of the date the lien  
6 becomes valid against subsequent purchasers without actual notice or the date  
7 the lienholder begins to furnish the services, labor or materials.

8       2. A purchaser who, for adequate and full consideration in money or  
9 money's worth, acquires an interest in property, other than a lien or  
10 security interest, which is valid against subsequent purchasers without  
11 actual notice. Any of the following which is not a lien or security interest  
12 is an interest in property:

13       (a) A lease of property.

14       (b) A written executory contract to purchase or lease property.

15       (c) An option to purchase or lease property or any interest in  
16 property.

17       (d) An option to review or extend a lease of property.

18       3. A holder of a security interest in property acquired by contract  
19 to secure payment or performance of an obligation or to indemnify against  
20 loss or liability. A security interest exists:

21       (a) If the property exists and the interest has become protected  
22 against a subsequent judgment lien arising out of an unsecured obligation.

23       (b) To the extent that the holder has parted with money or money's  
24 worth.

25       4. A judgment lien creditor.

26       C. Although a notice of lien has been filed as prescribed by section  
27 42-1152, the lien is not valid against:

28       1. Personal property purchased in casual sale as provided in section  
29 6323 of the internal revenue code.

30       2. Residential property subject to a mechanic's lien for certain  
31 repairs and improvements as provided in section 6323 of the internal revenue  
32 code.

33       Sec. 3. Section 42-1152, Arizona Revised Statutes, is amended to read:  
34 42-1152. Filing of lien; notice; recording

35       A. The notice prescribed in section 42-1151, ~~subsection B~~ may be filed  
36 by the department against the taxpayer's real property located in any county  
37 by recording a notice of lien in the form prescribed by subsection C of this  
38 section in the office of the county recorder.

39       B. The notice prescribed in section 42-1151, subsection B may be filed  
40 by the department against the taxpayer's personal property or rights to  
41 personal property located within this state by recording a notice of lien in  
42 the form prescribed by subsection C of this section in the office of the  
43 secretary of state.

1 C. A notice of lien recorded under this section shall specify the  
2 nature of the tax, the amount of tax, interest and penalty due, the taxable  
3 periods for which such amounts are due and the name and last known address  
4 of the taxpayer liable for such amounts.

5 Sec. 4. Conditional enactment

6 This act becomes effective from and after June 30, 2002, only if the  
7 legislature appropriates monies during the forty-fifth legislature, second  
8 regular session, to the department of revenue for the purpose of recording  
9 the notices of tax lien extension as provided by this act.

THIS BILL HAVING REMAINED WITH THE GOVERNOR FIVE DAYS,  
SUNDAY EXCLUDED, AND THE LEGISLATURE BEING IN SESSION, IT HAS  
BECOME A LAW THIS 17TH DAY OF APRIL, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2001.

Passed the House April 02, 2001,

by the following vote: 40 Ayes,

18 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 5, 2001,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

       day of       , 20  ,

at        o'clock        M.

        
Secretary to the Governor

Approved this        day of

      , 20  ,

at        o'clock        M.

        
Governor of Arizona

S.B. 1170

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this        day of       , 20  ,

at        o'clock        M.


        
Secretary of State

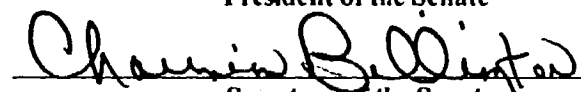
SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 10, 20 01,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

  
\_\_\_\_\_  
President of the Senate

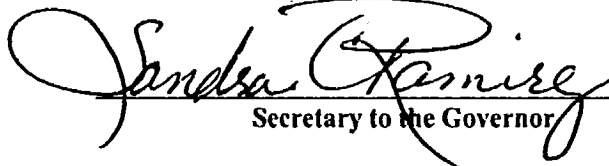
  
\_\_\_\_\_  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10 day of April, 20 01,

at 1:30 o'clock P M.

  
\_\_\_\_\_  
Secretary to the Governor

APPROVED THIS \_\_\_\_\_ day of

\_\_\_\_\_, 20 \_\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

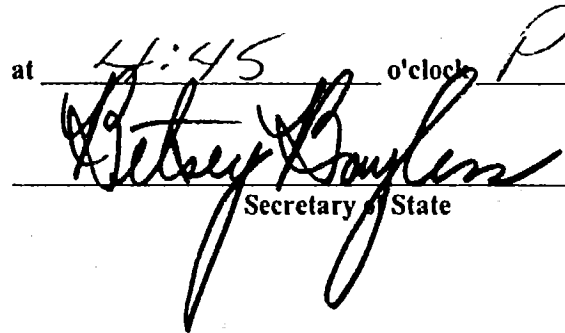
\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of April, 20 01,

at 4:45 o'clock P M.

  
\_\_\_\_\_  
Secretary of State

S.B. 1170